

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

MARY DOE parent and next of friend of
JANE DOE, a minor in and for her own
behalf and in their own right,
Plaintiff

v.

C.A. No. 17-365-M-LDA

CITY OF PAWTUCKET, RHODE
ISLAND, et al,
Defendants

**AFFIDAVIT OF GEORGE PATRICK HOVARTH, COUNSEL FOR PLAINTIFFS IN
SUPPORT OF MOTION TO ADJUDGE IN CONTEMPT AND FOR SANCTIONS**

I, GEORGE PATRICK HOVARTH, on oath depose and say:

1. I am a licensed attorney in the State of Rhode Island
2. I am Counsel for the Plaintiffs in this action presently before the court;
3. In the course of the litigation of this action, my client(s) and I have diligently attempted to conduct discovery in the most expeditious manner and to comply with the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the District of Rhode Island.
4. On July 9, 2022, this Honorable Court Ordered that the Motion of the Defendants to Quash Subpoenas issued by the Plaintiffs to the Pawtucket School Department and Pawtucket Police Department be DENIED.
5. Furthermore, the Court Ordered that **“Defendants must produce all the documents requested in the subpoenas within seven days.”**
6. More than seven days has passed since the issuance of said Order.
7. The Defendants have failed to produce certified documents as required under the order.
8. The Defendants have failed to produce Court Ordered original statements that were specifically requested in the subpoenas so that experts can review these documents to determine whether they have been altered.

9. The Defendant Pawtucket Police Department, through its counsel, forwarded an e-mail to Plaintiffs' counsel, which included an attachment allegedly contained material in response to the subpoena issued to the aforesaid Police Department.
10. The attachment referenced in the e-mail from the Police Department could not be downloaded. **Please See Exhibit A, attached hereto.**
11. When Plaintiffs' counsel advised counsel for the Police Department that the material was inaccessible, counsel for the Police Department sent an e-mail that a thumb drive containing only the video interviews were being mailed to Plaintiffs' counsel.
12. No recordings of any video interviews have been received.
13. The Defendant Pawtucket School Department has provided, in google e-mail format, documents that are non-printable, heavily redacted rendering their submission as virtually illegible and unusable. **(Please see Exhibit B, attached hereto.)**
14. The Defendant Pawtucket School Department has refused to provide full and complete Employment Files for Dr. David Morton and Dr. Linda Gifford, claiming "Attorney Client Privilege" and failing to include critical information, including but not limited to PDFs that contain reports, witness statements and notes and disciplinary charges brought against them. **(Please see Exhibit C, attached hereto.)**
15. The Defendant Pawtucket School Department has refused to provide certified copies of contracts, work orders, invoices, etc. from or with providers of surveillance system and video monitoring at the PLA, despite a spoliation having been sent to Defendants in the early stages of this litigation, they have caused items to be removed, revised and/or altered.
16. The Defendant Pawtucket School Department has acknowledged that not all Ordered items have been timely collected, and therefore the response to the subpoenas is, contrary to the Order of this Court; **(Please see exhibit D, attached hereto)**
17. The Defendant Pawtucket School Department has refused to provide information regarding the location of video and/or surveillance cameras at the PLA.
18. The Defendant Pawtucket School Department has refused to provide video tapes, cameras photographs and/or surveillance footage from within the PLA on dates when sexual assaults upon the Plaintiff occurred.
19. The Defendant Pawtucket School Department has refused to provide floor plans, contracts, work orders, building permits and invoices for renovations, alterations, additions and/or improvements performed within the PLA from July 8, 2016 to date.;
20. Although counsel for the Defendant School Department has had a list of prospective deponents for a lengthy period of time, he has, since the most recent Order of this Court, notified Plaintiffs counsel that the dates of availability of these deponents are beyond the

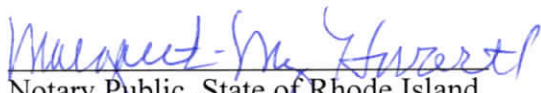
deadlines of the Scheduling Order presently in effect. **(Please see Exhibit E, attached hereto.)**

21. Counsel for the Defendant School Department has advised Plaintiff's Counsel, since the most recent Order of this Court, that multiple witnesses who were listed in communications to Defense Counsel and who are present or former members of the Pawtucket School Department cannot be located.
22. The testimony of the requested witnesses will be cumulative in nature and it is imperative that they be deposed in specific order.
23. Counsel for the Plaintiffs has noticed Defense Counsel of his intention to view the PLA on August 8, 2022 with a videographer. He has asked Defense Counsel confirm the date and has, as yet received no confirmation.
24. Actions on the part of the Defendants and their Counsel have continued since the most recent Order and continue to result in undue delay, bringing us to the precipice of the deadline for discovery as set by this Honorable Court.

DATED And signed under penalties of perjury this 17th day of July, 2022

George Patrick Hovarth

Before me this 17th day of July, 2022, appeared George Patrick Hovarth, who subscribed and swore to the truth of the foregoing.


Notary Public, State of Rhode Island
Margaret-Mary Hovarth
My Commission Expires on: 04/06/2025.



CERTIFICATION OF SERVICE

I, hereby certify that on this 17th day of July, 2022, I personally caused a copy of the foregoing to be filed with this Court's CM/ECF system, to the following:

Marc DeSisto, Esquire
Ryan Stys, Esquire
DeSisto Law Offices
60 Ship Street
Providence, RI 02906

William Conley, Esquire
Santiago Posas, Esquire
123 Dyer Street
Providence, RI 02903

/s/ George Patrick Hovarth

EXHIBIT A

Attachments Cannot be Downloaded

**All Exhibits are created as enlarged screen shots of individual documents
since none of the material could be printed.**



 Load blocked images

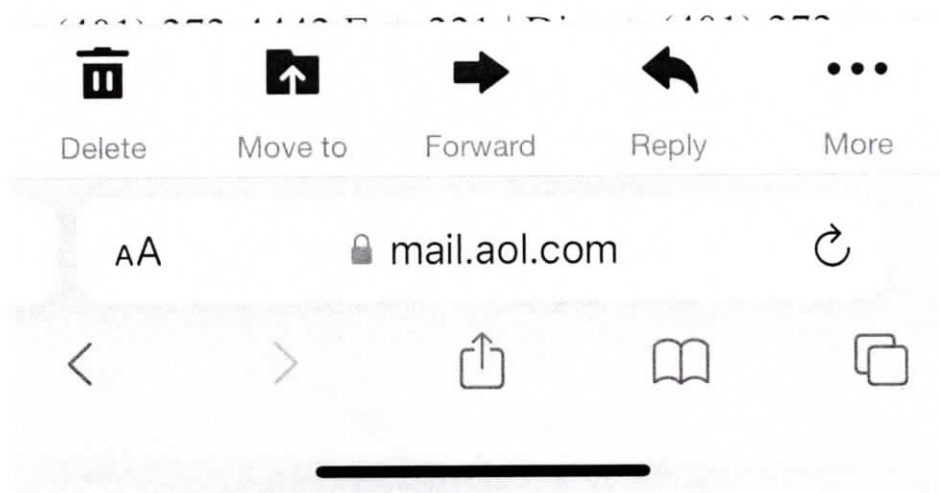
George,

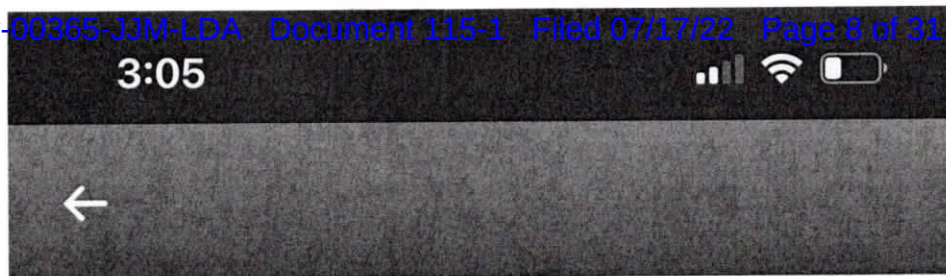
Attached, please find the Pawtucket Police Department's Response to your subpoena. The referenced video interviews are being mailed to you on a thumbdrive today.

Please confirm receipt of this.

Ryan D. Stys

60 Ship Street, Providence, RI 02903





Thank you.

❗ Attachments cannot be downloaded. [Learn more](#)



Defendant... pdf
1.7 MB



image001.png



image002.png
1.1 MB



Delete



Move to



Forward



Reply



More

AA

mail.aol.com



EXHIBIT B

Redacted Copies

Illegible Copies

**All Exhibits are created as enlarged screen shots of individual documents
since none of the material could be printed.**



POLYMER LETTERS

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
- [REDACTED] [REDACTED] [REDACTED]
[REDACTED]
- [REDACTED] [REDACTED]
- [REDACTED] [REDACTED] [REDACTED]
P [REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED]

6. [REDACTED]
[REDACTED]
7. [REDACTED]
8. [REDACTED]
[REDACTED]
9. [REDACTED]

Friday 21/7/12

- Issues 4

Second hand info - back to forth
Facebook talk - but [redacted] is not friends
w/ these girls on FB
Mediation of the girls??

Author's address:

[REDACTED]

- [REDACTED] [REDACTED] [REDACTED]
- [REDACTED]
- [REDACTED] [REDACTED]

P [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

([REDACTED])

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED] The [REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED]

-

Friday, 21/7/11

- Issues

Second hand info - back + forth
Facebook felt - but [redacted] is not forensic
w/ these girls on FB
Mediation w/ the girls ???

PETER PARSONS



3:25

2067



PDF Pawtucket Sc ... esponses.pdf



G

/2017

... Linda had
... building to go
... get her clipboard. Tom
... was there with [REDACTED]
... and two other students.
Linda said she thought
[REDACTED] had left the
building. Barbara
(secretary) found them
in the bathroom
together. I will forward
her email describing the
incident.

Page 532 / 781

AA

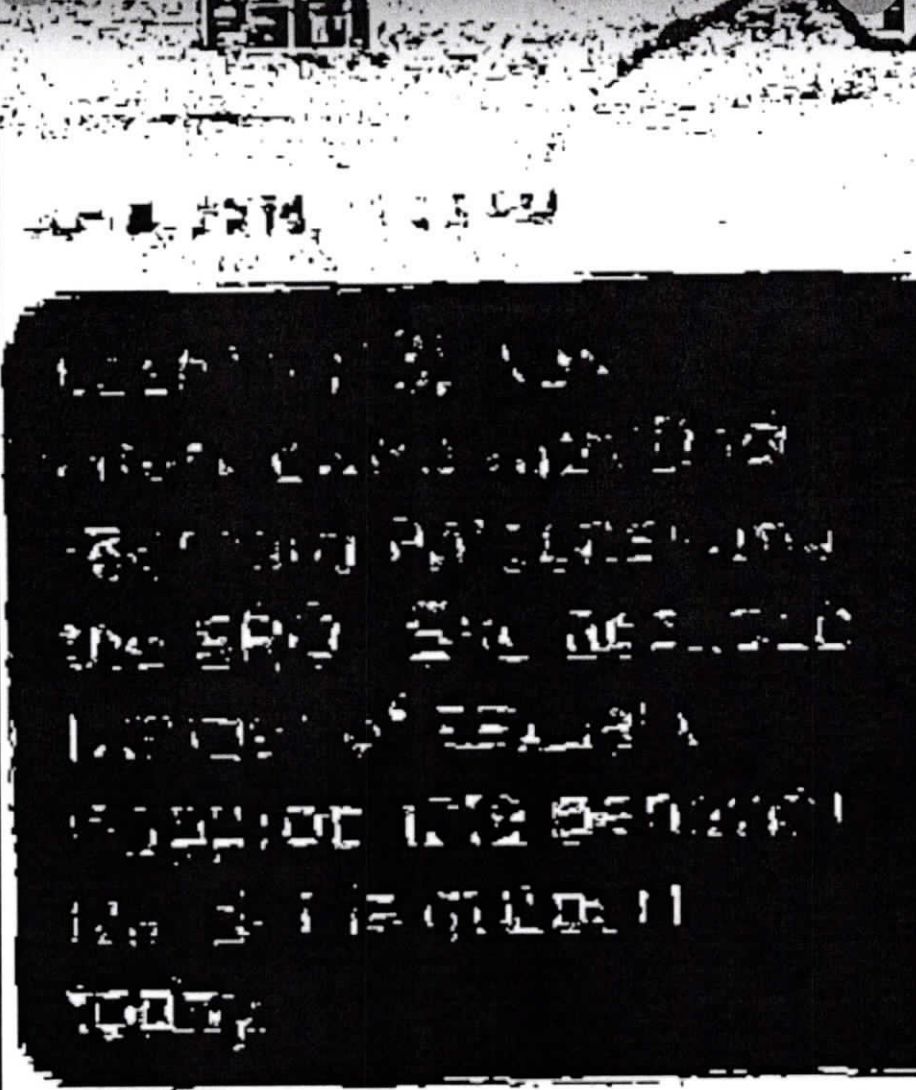
drive.google.com



3:25



PDF Pawtucket Sc... esponses.pdf



re left
fed by the
or her
a. On a formal

Page 533 / 781

AA

drive.google.com



EXHIBIT C

Employment Files

And

Missing Documents

Claim of Privilege

**All Exhibits are created as enlarged screen shots of individual documents
since none of the material could be printed.**

Fwd: RI Interlocal Trust incidents filed

1 message

Melissa Devine <devinem@psdri.net>

Thu, Jun 1, 2017 at 11:45

To: Karen Gerber <gerberk@psdri.net>

Cc: "Jon M. Anderson" <janderson@brasm.com>, Patti DiCenso <dicensop@psdri.net>

Hi Karen,

Here is the information that you requested that I send to you per Jon Anderson. They are the claim reports submitted and Witness statement that was provided to me.

Thanks

Melissa

Melissa Devine
Chief Financial Officer
Pawtucket School Department
286 Main Street
Pawtucket, RI 02860

Confidentiality Notice: This e-mail, including all attachments is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact me and destroy all copies of this message.

----- Forwarded message -----

From: Melissa Devine <devinem@psdri.net>

Date: Fri, May 26, 2017 at 10:23 AM

Subject: RI Interlocal Trust incidents filed

To: "Jon M. Anderson" <janderson@brasm.com>

Cc: Patti DiCenso <dicensop@psdri.net>, Lee Rabbitt <rabbittl@psdri.net>

Hi Jon,

Per your request, here are the five reports filed related to the D. Morton situation.

Also included is the witness statement that Lee gave me to upload. The other two uploads were the attorney letters which you have since you sent them to me. Any other statements or notes taken in meeting with the administrators at Lee's possession.

Let me know if you need anything else.

Thanks

Melissa

Melissa Devine
Chief Financial Officer
Pawtucket School Department
286 Main Street
Pawtucket, RI 02860

Confidentiality Notice: This e-mail, including all attachments is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact me and destroy all copies of this message.

6 attachments



104318.pdf



67K

in Lee's possession.
Let me know if you need anything else.
Thanks
Melissa

Melissa Devine
Chief Financial Officer
Pawtucket School Department
286 Main Street
Pawtucket, RI 02860

Confidentiality Notice: This e-mail, including all attachments is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact me and destroy all copies of this message.




6 attachments

-  [REDACTED] 104318.pdf
67K
-  [REDACTED] 104317.pdf

PSD/PARSONS0626

mail.google.com/mail/?ui=2&ik=2c1155345c&view=pt&search=inbox&tr=15c6455baa7e122b&siml=15c6455baa7e122b

Pawtucket School Department Mail - Fwd: RI Interlocal Trust Incidents filed

- 67K
-  [REDACTED] 104316.pdf
66K
-  [REDACTED] 104356.pdf
70K
-  [REDACTED] 103981.pdf
65K
- Witness statements - [REDACTED] Incident 2016.pdf
343K

Pawtucket School Department Mail - David Morton



Sharon Kitchin <kitchins@psdri.net>

David Morton

Attorney-Client Privilege

3 attachments

Morton Personnel File 1.pdf
5892K

 Morton Personnel File 2.pdf
8203K

 Morton Medical file.pdf
5499K

Page 177 / 781

PSD/PARSONS0173

[http://mail.anna@null.net?ui=2&ik=2&source=PRONYTM7%20on%20the%20road%20181007%20n2&view=nl&mcnz=1&Rd=1&gfr=0&fr3&e](mailto:anna@null.net?ui=2&ik=2&source=PRONYTM7%20on%20the%20road%20181007%20n2&view=nl&mcnz=1&Rd=1&gfr=0&fr3&e)

AA

 drive.google.com



3:21



Pawtucket Sc ... esponses.pdf



2 of 2

PSD/PARSONS0455

9/1/2017 2:04 PM

RE: Attorney-Client Privilege

Attorney-Client Privilege

1 of 1

PSD/PARSONS0455
9/1/2017 2:06 PM

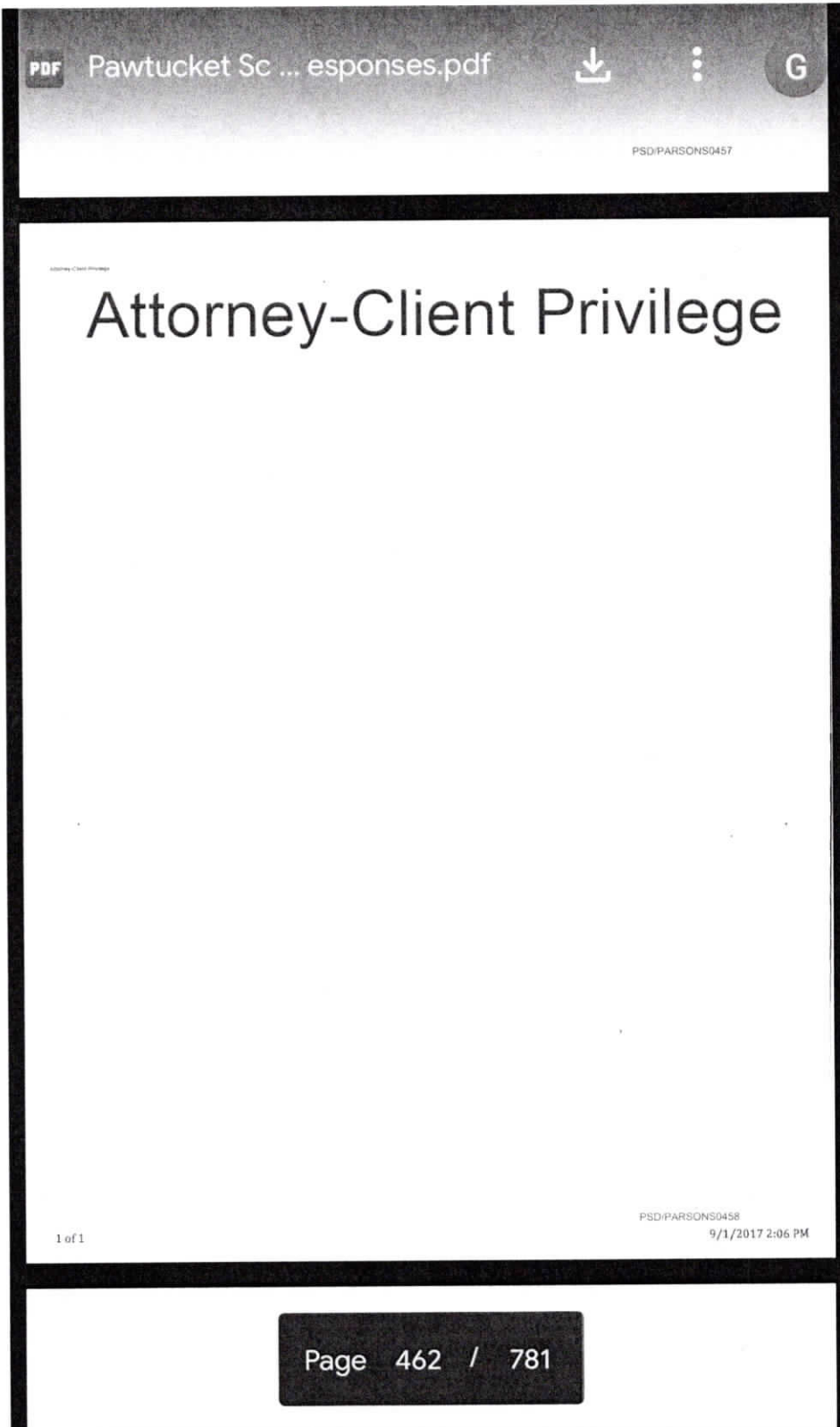
Page 460 / 781

AA

drive.google.com



3:21



AA

drive.google.com



3:24



PDF

Pawtucket Sc ... esponses.pdf



G

PSDIPARSONS0501

Attorney-Client Privilege

1 of 1

PSDIPARSONS0502

9/1/2017 2:00 PM

Page 506 / 781

AA

drive.google.com



3:23



Pawtucket Sc ... esponses.pdf



PSD/PARSONS0489

Attorney-Client Privilege and Work Product Privilege

Attorney-Client Privilege and Work Product Privilege

1 of 1

PSD/PARSONS0490

9/1/2017 1:59 PM

Page 494 / 781

AA

drive.google.com



3:24



PDF

Pawtucket Sc ... esponses.pdf



G

PSD/PARSONS0501

Attorney-Client Privilege

1 of 1

PSD/PARSONS0502

9/1/2017 2:00 PM

Page 506 / 781

AA

drive.google.com



3:24



Pawtucket Sc ... esponses.pdf



G

2 of 2

PSD/PARSONS0511

9/1/2017 2:06 PM

Pawtucket Letters

Attorney-Client Privilege

1 of 1

PSD/PARSONS0512

9/1/2017 1:59 PM

Page 516 / 781

AA

drive.google.com



EXHIBIT D

Video System

Video Recordings

Building Plans

**All Exhibits are created as enlarged screen shots of individual documents
since none of the material could be printed.**

Pawtucket Sc ... esponses.pdf



Subpoena III (Return time of 12:00 p.m.)

Request No. 1: Regarding cameras, video, and other surveillance in the interior and exterior of the Pawtucket Learning Academy, located at 286 Main Street, Pawtucket, RI, the following:

- a. True and certified copies of all contracts, work orders, schematics, and invoices from any and all providers of surveillance system design, maintenance, installation, repair, and servicing from May 1, 2016 through the present.
- b. Schematics, diagrams or other documentation showing the location of all cameras, whether video or still, within the PLA on May 1, 2016.
- c. True a [sic] certified copies of the video tapes, camera photographs and any other surveillance footage from within the PLA on the following dates:
 1. May 1-10, 2016;
 2. June 4-7, 2016;
 3. April 7, 2017.

Response: No responsive documents are in PSD's possession, custody, or control.

Request No. 2: Regarding the interior of the Pawtucket Learning Academy, located at 286 Main Street, Pawtucket, RI, the following:

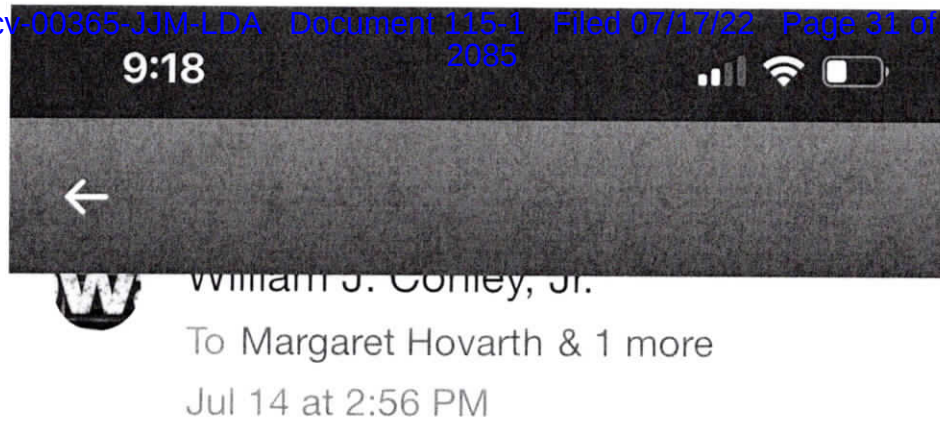
- a. Floor plans of the interior of the PLA on June 1, 2016;
- b. Floor plans of the interior of the PLA at present;
- c. True and certified copies of all contracts, work orders, plans, building permits, and invoices for any renovations, alterations, additions, and/or improvements performed within the PLA from June 8, 2016 through the present.

Response: PSD has not identified any responsive documents in its possession, custody, or control. PSD reserves the right to supplement any responsive documents as soon as any are identified.

Defendant,
Pawtucket School Department,
By its Attorney,

/s/ William J. Conley, Jr.
William J. Conley, Jr., Esq. (#2149)

EXIBIT E
Communication
William Conley, Jr., Esq.
Deposition Availability



Good afternoon,

With respect to scheduling the depositions, the deponents are available as follows:

Tuesday, July 19 @ 3:00 PM - Maria SanMartino

Tuesday, July 19 @ 1:00 PM - we are still trying to reach Elizabeth Flynn

Tuesday, July 26 @ 1:00 PM -- Lee Rabbit

Thursday, July 28 @ 1:00 PM - Linda Gifford

Christopher Swiczowicz is available for deposition on August 15, 2022.

Michaela Fratterelli is available for deposition on August 16, 2022 or August 17, 2022 @ 10:00

